

VZCZCXR07380

PP RUEHCHI RUEHDT RUEHHM RUEHNH

DE RUEHPF #0365/01 0550747

ZNY CCCCC ZZH

P 240747Z FEB 06

FM AMEMBASSY PHNOM PENH

TO RUEHC/SECSTATE WASHDC PRIORITY 6087

INFO RUCNASE/ASEAN MEMBER COLLECTIVE PRIORITY

C O N F I D E N T I A L SECTION 01 OF 04 PHNOM PENH 000365

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E.O. 12958: DECL: 02/21/2016

TAGS: PHUM PGOV SENV ECON CB

SUBJECT: ANATOMY OF A LAND DISPUTE: TWO CASESQOM WESTERN CAMBODIA

REF: A. 05 PHNOM PENH 479

¶B. 06 PHNOM PENH 348

Classified By: Economics Officer Jennifer Spande for reason 1.4 (b).

¶11. SUMMARY. Land disputes affect 45% of the population of the western province of Banteay Meanchey and 10% of the population in neighboring Battambang province, according to estimates by local NGO activists. During a Feb. 1-3 trip to the region, Econoff and Econ FSN learned that such disputes are on the rise. In some cases, government officials failed to enforce decisions favorable to villagers or overturned the decisions without explanation. The use of frontmen and pseudonyms on land titles, overlapping government claims, and sometimes weak legal basis for villagers' land claims contribute to NGO difficulty in taking a systemic approach in tackling the issue. Villagers in Banteay Meanchey asserted that, if necessary, they would resort to violence to defend their land; while villagers in Battambang said that they would continue to pursue their cases vigorously but without using violence. END SUMMARY.

Battambang: Land Disputes in Cambodia's "Rice Bowl"

¶12. (U) Known as the "rice bowl" of Cambodia, Battambang province in Western Cambodia shares a long border with Thailand and its provincial capital, also named Battambang, is Cambodia's second largest city. Governor Prach Chan related that Battambang saw protracted fighting during the Khmer Rouge period and the ensuing conflict between Vietnamese-backed soldiers and the Khmer Rouge. The long history of guerrilla warfare in the province led to very fluid land occupancy. In many districts, residents fled their homes during periods of intense fighting and returned once the fighting subsided. New migrants--often displaced from their home provinces or looking for better economic opportunities--also came to Battambang with the end of the war. Governor Prach Chan noted that these migrants should have asked for government permission to settle on new land, but rarely did.

¶13. (SBU) Pol Sarith of the NGO Vigilance estimated that 90% of the land disputes in Battambang involve the military and that following the war, many military commanders claimed to own the land their soldiers had "liberated". From 1996 until about 2000, he explained, military officers were typically a party to disputes. However, as they sold their disputed holdings, the number of cases of villagers squaring off against new "owners" has risen, and these now account for the majority of cases. Sarith also noted that 40% of Vigilance's

current land dispute caseload involves cases in 11 villages involving 12,000 people who have settled on environmentally protected land without government permission. (Note: It is common for different government bodies, as well as private citizens, to have conflicting claims to the same land. End note.) Indeed, Governor Prach Chan told Econoff that 2/3 of the province is state-owned environmentally protected land, leaving little available land for migrants or newlyweds establishing new households.

¶4. (SBU) NGO observers estimated that about 10% of the provincial population is involved in a land dispute and that the number of land disputes appears to be rising. Yeng Meng Ly of the NGO Adhoc noted that they had 13 land dispute cases in all of 2005, but in January 2006 alone they received three new cases. (Note: Most of Adhoc's cases involve hundreds of people each. End Note.) Road development is causing a rapid rise in land prices, which in turn is fueling land speculation. Speculation is so rampant, Meng Ly noted, that people from Phnom Penh buy land in Battambang from the military without having seen the land or even knowing where it is. Sarith noted that the affected villagers are becoming increasingly angry each year. Some turn to NGOs for legal help, he said, but others arm themselves with machetes, hammers, or whatever they can find and prepare to forcibly battle eviction.

Ompil Pram Dahm: Dispute Threatens Long-Settled Community

¶5. (SBU) The residents of Ompil Pram Dahm village, whose name means "Five Mandarin Trees", lived on the same land for generations. In 1994, fighting between the Khmer Rouge and government-backed soldiers displaced the entire commune, sending more than 1,000 families living in seven villages in

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the commune to Bovel commune 12 kms away. The displaced villagers lived in Bovel commune until 1997, when fighting ended. However, when they tried to return to Ompil Pram Dahm, the former Khmer Rouge soldiers settled in the area said that they had liberated this area and now owned part of the land where the village was located. Undeterred, the original residents moved back to the area. However, the soldiers sold 120 hectares of disputed land to 90 families from Battambang and neighboring Banteay Meanchey provinces. Some villagers lost all their land in these sales, while others lost just a portion of their land or none at all. The residents were unsure if the buyers bought this land in good faith or knowingly bought disputed land; the villagers were unaware of the sale price.

¶6. (SBU) In 2003, the villagers decided that they had had enough and agreed to work together to plant rice in the disputed areas. In November 2003, the Ministry of Land Management issued a letter recognizing the right of the original residents to grow rice on the disputed land. Villagers planted rice, but when harvest time came, the purported owners came and claimed the rice harvest. Villagers' complaints to police and commune council had no effect. In 2004, the military mediated an agreement between the buyers and the villagers whereby 76 hectares of the 120 disputed hectares was divided evenly between original residents and new buyers. However, 44 hectares, belonging to 34 families, are still in dispute.

¶7. (SBU) Residents say that because of the loss of their land and the areas still in dispute, the village no longer has sufficient land to feed itself. They must rent agricultural fields in other areas and increase their incomes by raising additional livestock and sending some villagers to work as day laborers in Thailand. Moreover, a new generation of landless villagers is being created as many families no longer have land to give to newlyweds. In 1999 and in April 2005, villagers traveled to Phnom Penh to protest in front of the National Assembly. They remain frustrated by the

remaining 44 disputed hectares but are unsure of what action to take. They say that they will not resort to violence, as they fear arrest.

"Heaven for the Rich, Hell for the Poor" in Banteay Meanchey

¶18. (U) For economic migrants after the Khmer Rouge period, Banteay Meanchey province seemed like a dream come true: a relatively sparsely populated province with fertile land and a 180 km-long border with Thailand, allowing for easy access to consumers and day labor jobs in Thailand. But according to the governor of the province, General Heng Chantha, Poipet, the province's largest town, is "heaven for the rich and hell for the poor". Poipet has attracted many migrants hoping for well-paying jobs at its casinos, but leaves most struggling to survive on the low wages of day laborers and merchants. More than 3,000 Cambodians cross into Thailand each day to sell their wares at a market just across the border, and an unknown number come to work as day laborers on construction projects, agricultural fields, or shining shoes on the streets of Poipet. Children working as porters smuggle clothing and other goods into Thailand on foot, often walking more than 20 km each day just to earn a dollar and a half.

¶19. (U) As Poipet has quickly and dramatically transformed from a dusty border crossing to a bustling town with six casinos, land prices have risen dramatically and land disputes have followed quickly behind. According to Khun Borin of the Cambodian Association for Rural Development and Health, land in Poipet commune that was mined and essentially worthless in 1992, was worth about USD 20 per square meter in 2000 and USD 100 per square meter today. Prices for land all along the Thai border and in the provincial capital, Sisophon, have also increased dramatically in recent years. Similarly, rising land prices are fueling land speculation, but because wealthy investors don't take up residence on their land, squatters move in.

¶10. (SBU) Unscrupulous individuals use different ploys to take advantage of the demand for land. Gen. Chantha noted that some unethical government officials sent to work in the province hire people to move in to uninhabited land to create a dispute that they can use to their advantage. Andy Kervell, Technical Advisor to the provincial Mine Action Planning Unit, told of several cases where desperately poor

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people are told that they can have small plots of land if they are willing to demine the land themselves, but when the demining is finished, the land owner reneges on the deal. Lee Huong of Adhoc noted that over the past few months, most of their cases have involved villagers who are removed reportedly because the land they occupy has been declared a community forest, only to have the forest cleared by others once these villagers leave.

¶11. (SBU) Borin estimated that 45% of the provincial population is involved in a land dispute. Gen. Chantha noted that in just one of the provinces' eight districts, there are more than 100 active land disputes involving more than 5,000 people, and the number of land disputes across the province are increasing each day. Nhem Sarath of Adhoc reported that they have received 16 land dispute cases involving a total of 10,000 individuals since January 2005.

Prey Prik: Community May Use Violence to Defend Land

¶12. (U) From 1995 to 1999, a disparate group of Cambodians--all of whom had been internally displaced or living in refugee camps during the war--settled in Prey Prik village, located in Poipet commune just 10 km from the casino strip and 8 km from the Thai border. The village is situated on a former minefield, and in fact some of the 815 families

who settled in Prey Prik did so before the area was formally demined by the Cambodian Mine Action Center in 1997. During the war, the area had been occupied by the Royal Cambodian Armed Forces' 911th regional military battalion.

¶13. (C) In 1999, the battalion began building small roads in and around the village (with the villagers' consent) and also began to sell both occupied and unoccupied land to new owners. Although other commune residents were listed as the land owners, many say that in fact these people are merely frontmen for a small group of powerful Cambodians. Borin told Econoff that he saw documents listing Khun Kim (Deputy Commander in Chief of the Royal Cambodian Armed Forces), Nhem Soeun (wife of CPP faction leader and Senate President Chea Sim) and Hok Lundy (Commissioner General of the National Police) as some of the purported owners of the land.

¶14. (SBU) The disputed land claims remained dormant until 2005 when Chun Samnang, one of the sellers, created a list of purported land owners and turned it in to the commune authorities. Samnang had also been appointed--rather than elected--as a village representative, over the mounting objections of some of the villagers. His list of land owners reportedly included the names of the new buyers as well as his friends and associates among the earlier settlers. However, villagers who were out of favor with Samnang were left off the list, regardless of their claim to the land. 589 families filed a complaint alleging that they were being stripped of 103 hectares that was rightfully theirs.

¶15. (SBU) Initially, commune and national authorities appeared to be sympathetic to the villagers' claims. On August 7, 2005, the commune chief gave the villagers a temporary land certificate, and on August 22, 2005, the Council of Ministers issued a directive saying that the disputed land belongs to the villagers and they have the right to live there. However, just a week later, the Prime Minister issued a circular asking the Minister of Land Management to reconsider these decisions, and provincial authorities quickly canceled the temporary land certificates. Villagers now fear that they will be forcibly evicted, just as their neighbors in Kbal Spien, only a few kilometers away, were in a violent episode in March 2005 (Ref A).

¶16. (SBU) Prey Prik villagers have no agricultural land other than small family gardens; they work as day laborers in Thailand. Many villagers travel to Thailand daily to work as shoe polishers and porters, earning about USD 1.50 per day and paying about 40 cents to commute by motorcycle taxi. The villagers want to gain permanent title to the land so they can construct buildings, including a school. They are determined to remain on their land, and told Econoff that they will try to persuade government officials not to evict them. However, if their attempts at persuasion are unsuccessful, they said that they would consider resorting to violence.

Comment

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¶17. (C) These two cases help illustrate some of the reasons NGOs have had difficulty in addressing land disputes in a systemic way (Ref B). The use of pseudonyms and frontmen means that it is frequently difficult to ascertain who is really involved in land disputes. Overlapping government claims must be resolved. Cambodia's court system is notoriously corrupt, and offers little hope for those who cannot afford to buy a favorable decision. And in some cases, the poor and vulnerable simply may not have legal rights to the land they occupy.

¶18. (SBU) While it is almost invariably relatively poor Cambodians being affected the most by land disputes, these two cases also illustrate that different communities bring

vastly different economic, intellectual, and social resources to bear in their conflict. Ompil Pram Dahm villagers have long-standing community ties, have elected leadership, and live in typical rural Cambodian conditions. Their village chief keeps scrupulous notes about the land dispute, and the villagers have some, although not sufficient, agricultural land. In contrast, Prey Prik is a collection of villagers displaced from their homes across the country who struggle to survive and live in conditions that are difficult even by rural Cambodian standards. They have no agricultural plots of any size and their housing is made of plastic sheeting on wooden frames. They have no elected village leader, and the older villagers who speak for the group are illiterate. It is no surprise that those who are the most desperate are the ones more willing to use violence to defend their precarious community.

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